

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FCS ADVISORS, LLC,

Plaintiff,

—against—

21 Civ. 6995 (PKC)

THEIA GROUP, INC., d/b/a “THORIAN
GROUP” and/or “CYPHERIAN”; THEIA
AVIATION, LLC; and THEIA HOLDINGS
A, INC., d/b/a “THORIAN HOLDINGS,”

Defendants.

**DECLARATION OF MARK CALLAHAN IN SUPPORT OF IN SUPPORT OF
EXPEDITED MOTION OF RECEIVER FOR AN ORDER FURTHER
EXTENDING THE STAY PROVIDED IN THE RECEIVERSHIP ORDER**

1. I am a Managing Director of FCS Advisors, LLC d/b/a Brevet Capital Advisors (“FCS”).
2. I submit this declaration in support of the *Expedited Motion of Receiver for an Order Further Extending the Stay Provided in the Receivership Order* (the “Motion”) filed contemporaneously herewith.
3. On November 8, 2021, this Court appointed Michael Fuqua, as receiver (“Receiver”) to oversee the defendants, Theia Group Inc., Theia Aviation LLC, and Theia Holdings A, Inc. (collectively, “Theia” or the “Receivership Entities”).
4. In May 2019, prior to the receivership, Theia secured a license from the Federal Communication Commission (“FCC”) to build a network of 112 satellites for imaging the entire surface of the Earth. The license requires Theia to launch 56 of the satellites by May 9, 2025. That license is Theia’s largest asset. That license is valuable only if Theia (or a subsequent buyer) moves swiftly to meet the FCC’s conditions for maintaining the license. With the

cooperation of the FCC, the license was transferred to, and is now held by, the Receiver. (First Interim Status Report of Receiver [ECF No. 135] ¶ 3).

5. FCS is Theia's largest creditor, is owed in excess of \$289 million, and has a first priority lien on the entity that possesses the license. In June 2020, the parties entered into a Secured Note Purchase and Security Agreement (the "SNPSA") that refinanced certain prior debt owed to FCS with two \$100 million promissory notes, one due on December 29, 2020, and the other on June 29, 2021. The parties agreed to an amendment of the SNPSA (the "Third Amendment") that extended the due date on the first note to June 29, 2021, the same date the second note was due. Theia did not make payment on either note.

6. After Theia failed to make payment on the SNPSA (or comply with its other obligations), FCS commenced the above-captioned proceeding on August 19, 2021 and requested the appointment of a receiver for Theia. As Theia acknowledged, there was no operating company. (Transcript of Oct. 20, 2021 Hearing at 29.) Preserving the value of the FCC license requires a sale of the Receivership Entities' assets, including the FCC license. If certain requirements are not satisfied by May 2025, the FCC license is expected to disappear. The value of that license requires a sale in the short term as the value will decrease as the deadlines get closer and less feasible for a purchaser to achieve.

7. Following a hearing on October 20, 2021, this Court appointed the Receiver. The Receiver was granted the authority to take control of the assets of the Receivership Entities (Order ¶ 3), sell the assets of the Receivership Entities (Order ¶ 6), hire professionals (Order ¶ 11), and borrow funds to operate the receivership (Order ¶ 13).

12. Therefore, FCS supports the Receiver's request to extend the stay until June 30, 2023.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
April 17, 2023



Mark Callahan